

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Omak Wood Products, LLC
Omak, Washington

Respondent

NOTICE OF VIOLATION

Pursuant to Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413, the U.S.

Environmental Protection Agency (“EPA”), through the Director of the Office of Compliance and Enforcement, upon the basis of available information, hereby issues the following Notice of Violation (“NOV”) to Omak Wood Products LLC (“OWP” or “Respondent”). The NOV alleges violations of the CAA at the wood products manufacturing facility operated by Respondent in Omak, Washington, including violations of the Federal Rules for Reservations, 40 C.F.R. Part 49, Subparts C and M, and Respondent’s Title V permit and the operating permit provisions of the CAA, including Section 502 of the CAA, 42 U.S.C. § 7661a.

I. STATUTORY AND REGULATORY AUTHORITIES

1. Pursuant to Section 301(a) and (d)(4) of the CAA, 42 U.S.C. § 7601(a) and 7601(d)(4), EPA has adopted a Federal Implementation Plan (“FIP”) that includes air quality regulations that apply to air pollution sources on Indian Reservations in Idaho, Oregon, and Washington, which are codified at 40 C.F.R. Part 49, Subparts C and M. These rules are known as the Federal Air Rules for Indian Reservations in Region 10 (“FARR”) and became effective on June 7, 2005.

2. The FIP for the Confederated Tribes of the Colville Reservation is identified at 40 C.F.R. §§ 49.9951 through 9960. The FARR provisions that apply on the Colville Indian Reservation are incorporated by reference at 40 C.F.R. § 49.9956(a) through (m).
3. The FARR includes, among other things, a rule limiting visible emissions found at 40 C.F.R. § 49.124. The rule limiting visible emissions is incorporated by reference into the implementation plan for the Colville Indian Reservation at 40 C.F.R. § 49.9956(b).
4. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for certain sources, including “major sources”.
5. Section 504(a) of the CAA, 42 U.S.C. § 7661c(a), requires that each Title V permit contain enforceable emission limitations and standards and such other conditions as are necessary to assure compliance with requirements of the CAA, including requirements of an applicable implementation plan.
6. Section 502 of the CAA, 42 U.S.C. § 7661a, has at all relevant times made it unlawful for any person to violate any requirement of a permit issued under Title V or to operate a major source and certain other sources except in compliance with a permit issued by a permitting authority under Title V.

II. GENERAL FINDINGS

7. Respondent is a corporation incorporated in the State of Washington.
8. Respondent has operated a wood products manufacturing facility located at 1100 Eighth Avenue East in Omak, Washington, since at least September 2013 (“Facility”).
9. The Facility is located within the exterior boundary of the Colville Indian Reservation.
10. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
11. The Facility is a major air pollution source subject to Title V of the CAA and 40 C.F.R. Part 71.

12. EPA administers the Title V operating permit program on the Colville Indian Reservation under regulations promulgated by EPA at 40 C.F.R. Part 71.

13. EPA issued Title V Operating Permit No. R10T5-WA-03-01M2 to Respondent for the Facility on July 2, 2013 ("Title V Permit"). Although the Title V Permit bears an expiration date of June 9, 2008, it has been administratively extended as provided in 40 C.F.R. § 71.7(3)(c) and remains in effect.

14. The Facility includes a wood-waste fueled boiler (Boiler Number 1), which is an "air pollution source," as defined at 40 C.F.R. § 49.123.

III. VIOLATIONS

Violation 1

15. 40 C.F.R. §§ 49.9956(b) and 49.124(d)(1) state that visible emissions from an air pollution source must not exceed 20 percent opacity, averaged over any consecutive six-minute period, unless paragraph (d)(2) or (d)(3) of 40 C.F.R. § 49.124 applies to the air pollution source.

16. 40 C.F.R. § 49.124(d)(2) states that the visible emissions from an air pollution source may exceed the 20 percent opacity limit if the owner or operator of the air pollution source demonstrates to the Regional Administrator's satisfaction that the presence of uncombined water, such as steam, is the only reason for the failure of an air pollution source to meet the 20 percent opacity limit.

17. 40 C.F.R. § 49.124(d)(3) states that the visible emissions from an oil-fired boiler or solid fuel-fired boiler that continuously measures opacity with a continuous opacity monitoring system may exceed the 20 percent opacity limit during start-up, soot blowing, and grate cleaning for a single period of up to 15 consecutive minutes in any eight consecutive hours, but must not exceed 60 percent opacity at any time.

18. The Facility does not meet the requirements for an exemption from the visible emissions requirements of 40 C.F.R. § 49.124(d)(1) pursuant to either 40 C.F.R. § 49.124(d)(2) or (d)(3).

19. Since Respondent restarted the Facility on or about September 30, 2013, Respondent has conducted observations of the visible emissions from Boiler Number 1 at the Facility that have documented visible emissions greater than 20 percent opacity, averaged over a consecutive six-minute period.

20. Accordingly, Respondent violated the 40 C.F.R. §§ 49.9956(b) and 49.124(d)(1) on one or more days from September 30, 2013 to present.

Violation 2

21. Paragraph III.A.1.g. of the Title V Permit states that at any time that the veneer dryers are vented to the boilers' combustion chambers, the six-minute average opacity from the boiler wet scrubbers' stacks shall not exceed five percentage points added to the average opacity recorded during the most recent particulate matter ("PM") and PM less than 10 microns in diameter ("PM10") emission testing as determined using Reference Method 9 (40 CFR 60 App A).

22. The most recent PM and PM10 emission testing of Boiler Number 1 was conducted in July 2007. The average opacity recorded during that testing was 16.4 percent opacity.

23. Since restart of the Facility on or about September 30, 2013, Respondent has conducted observations of the visible emissions from Boiler Number 1 at the Facility that have documented visible emissions greater than 21.4 percent opacity determined using Method 9 of 40 C.F.R. Part 60, Appendix A.

24. Accordingly, Respondent violated Paragraph III.A.1.g. of the Title V Permit on one or more days from September 30, 2013 to present.

Violation 3

25. Paragraph III.A.3.b. of the Title V Permit states that at all times the boilers operate, the oxygen levels (percent) in each boiler's exhaust shall be monitored continuously and recorded hourly and that an alarm indicating oxygen levels outside of the range set by Paragraph III.A.1.h of the Title V permit shall be operated at all times and recorded when triggered.

26. Based on telephone conversations with Respondent on October 22, October 30, November 5 and November 11, 2013, Boiler Number 1 has operated on multiple days since September 30, 2013 at times when oxygen levels in Boiler Number 1 were not being monitored continuously or recorded hourly.

27. Accordingly, Respondent violated Paragraph III.A.3.b. of the Title V Permit on one or more days from September 30, 2013 to present.

Violation 4

28. Paragraph III.A.1.e. of the Title V Permit states that the boilers, veneer dryers and boiler multiclone and wet scrubbers at the Facility shall be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions at all times; that good air pollution control practices include, but are not limited to, maintaining the veneer dryer door seals to minimize emissions; and that determination of whether acceptable operating and maintenance procedures are being used will be based on information available which may include, but is not limited to, testing and monitoring results, opacity observations, review of operating and maintenance procedures and inspection of the source.

29. Based on telephone conversations with Respondent on October 22, October 30 and November 5, 2013, and on records provided by Respondent, Boiler Number 1 was operated at times without an operating oxygen monitoring system, boiler emissions were in excess of the opacity limits in the FARR and in the Title V Permit, that the wet scrubber on Boiler Number 1 was not operating as designed or required by the Title V Permit, and that an inspection of the wet scrubber on Boiler Number 1 found that the piping was cracked, the nozzles were significantly corroded and rusted, and the entire water injection portions of the wet scrubber required substantial repair.

30. Accordingly, Respondent violated Paragraph III.A.1.e. of the Title V Permit on one or more days from September 30, 2013 to present.

Violation 5

31. Paragraph III.A.3.d. of the Title V Permit states that at all times that the boilers operate, the pressure drop (inches of water) across each boiler wet scrubber shall be monitored continuously and recorded hourly.

32. On November 13, 2013, Respondent stated that the values recorded for the pressure drop across the Boiler Number 1 wet scrubber have not been accurate since restart of Boiler Number 1. Respondent stated that the boiler operator evaluated the pressure drop monitoring system on November 11, 2013, and found that the line connecting the wet scrubber to the pressure drop monitor was plugged to such an extent that it resulted in inaccurate pressure drop values. Respondent stated that after clearing the pluggage in the line, the pressure drop values measured were in compliance with the values required by the Permit.

33. Accordingly, Respondent violated Condition III.A.3.d. of the Title V Permit from September 30 to November 11, 2013.

Violation 6

34. Paragraph VII.A.4. of the Title V Permit states that within 10 working days of the occurrence of a deviation as provided in Paragraph VII.A.2. of the Title V Permit, Respondent shall submit a written notice to EPA, certified consistent with Paragraph VII.B. of the Title V Permit.

35. Paragraph II.A.4(a) of the Title V Permit states that a deviation means any situation in which an emissions unit fails to meet a permit term or condition and specifically includes, among other things, a situation when emissions exceed an emission limitation or standard; a situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit; and a situation where any testing, monitoring, recordkeeping or reporting required by the Title V Permit is not performed or not performed as required.

36. Respondent did not notify the EPA in writing within ten days of occurrence of the exceedances of the visible emissions standards discussed in Violations one and two above, of the failure to monitor and record oxygen levels as discussed in Violation three above, and of the failure to monitor pressure drop, as discussed in Violation five above.

37. Accordingly, Respondent violated Paragraph VII.A.4. of the Title V Permit on one or more days from September 30, 2013 to present.

IV. ENFORCEMENT

38. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to take any of the following actions whenever, on the basis of available information, EPA finds that any person has violated or is in violation of any requirement of the CAA:

- a. Issue an order requiring such person to comply with the requirements of the CAA;
- b. Issue an administrative penalty order in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for civil administrative penalties of up to \$25,000 per day of violation;
- c. Bring a civil action in accordance with Section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties of not more than \$25,000 per day for each violation.

39. Section 113(c) of the CAA, 42 U.S.C. § 7413(c), authorizes EPA to request the Attorney General to commence a criminal action for knowing violations of the CAA.

40. Under Section 306 of the CAA, the regulations promulgated there under (40 C.F.R. Part 32), and Executive Order 11738, facilities to be used in federal contracts, grants, and loans must be in full compliance with the CAA and all regulations promulgated pursuant to it. Violation of the CAA may result in the subject facility being declared ineligible for participation in any federal contract, grant, or loan.

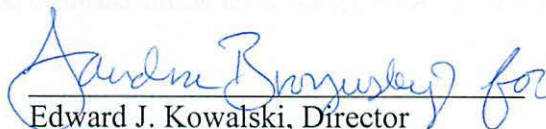
41. Section 120 of the CAA, 42 U.S.C. § 7420, authorizes EPA to assess penalties for noncompliance aimed at recovering the economic benefits which the violator has received by operating the facility out of compliance.

42. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2471, as amended by 31 U.S.C. § 3701, and as provided in 40 C.F.R. Part 19, the amounts specified in the forgoing paragraphs increase to \$37,500 per day for each violation occurring on and after January 13, 2009.

43. This NOV does not waive or limit EPA's right to any remedy available to it under the CAA.

44. This NOV shall become effective immediately upon issuance.

Issued this 23rd day of December, 2013.


Edward J. Kowalski, Director
Office of Compliance and Enforcement